

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE: STEVEN LEE MILLER, DEBTOR)	CASE NO. 19-50958-KMS CHAPTER 13
)	
)	
STEVEN LEE MILLER)	PLAINTIFF
)	
VS.)	ADV. PROC. NO._____
)	
SELECT ONE AUTO SALES, and JOHN DOE, UNKNOWN OWNER OF SELECT ONE AUTO SALES)	
)	
)	
)	DEFENDANTS

**COMPLAINT TO TURNOVER VEHICLE,
FOR SANCTIONS AND FOR DAMAGES**

COMES NOW, Steven Lee Miller, Plaintiff, by and through his attorney and brings this his Complaint to require Select One Auto Sales, and John Doe, Unknown Owner of Select One Auto Sales, to turnover vehicle, for sanctions and for damages, and in support thereof, would show this Court the following:

JURISDICTION AND VENUE

1. Jurisdiction is conferred on this Court pursuant to the provisions of § 1334 of Title 28 of the United Stated Code in that this core proceeding arises in and is related to the above-captioned Chapter 13 case under Title 11 and concerns property of the Debtor and the estate. Venue lies in this district pursuant to 28 U.S.C. § 1391(b).

2. This Court has both personal and subject matter jurisdiction to hear this case pursuant to § 1334 of Title 28 of the United States Code, § 157(b)(2) of Title 28 of the United States Code.

3. This Court has supplemental jurisdiction to hear state law claims pursuant to § 1367 of Title 28 of the United States Code.

PARTIES

4. Plaintiff, Steven Lee Miller, is the Debtor in the above entitled Chapter 13 case number pending before this court.

5. The Defendant, Select One Auto Sales, is an unknown entity in Mississippi with the principal place of business located at 647 Pass Road, Gulfport, Mississippi 39501.

6. Select One Auto Sales is not a registered business with the Mississippi Secretary of State.

7. John Doe, the unknown business owner of Select One Auto Sales can be served at the principal place of business, 647 Pass Road, Gulfport, Mississippi 39501.

FACTUAL ALLEGATIONS WHICH APPLY TO ALL CAUSES OF ACTION

8. Plaintiff filed a voluntary Chapter 13 petition and notice of filing was sent to the defendant by Rollins Law Firm via facsimile on May 17, 2019; and by phone on May 17, May 20 and May 21, 2019.

9. That Plaintiff had possession of a 2010 Ford Fusion.

10. Defendant repossessed pre-petition, Debtor's 2010 Ford Fusion on or about May 14, 2019.

11. That the automatic stay provisions of this court were in full force and effect commencing May 17, 2019. That pursuant to 11 USC Section 362 a stay is in effect prohibiting the creditors from (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the

commencement of the case under this title...., (2) the enforcement, against the debtor or against property of the estate... (3) any act to obtain possession of property of the estate or of property from the estate to exercise control over property of the estate".

12. That the Defendant, Select One Auto Sales, has refused to return the vehicle despite the fact the bankruptcy was filed. That Defendant has repossessed the vehicle and refused to return it, despite the fact the automatic stay is in effect and despite the bankruptcy protection has intentionally and willfully violated the provisions contained in Section 362 (a) of the Bankruptcy Code by repossession said vehicle after said bankruptcy was filed on May 17, 2019. That the Defendant should be ordered to pay attorney fees and damages incurred by Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court set this Complaint for hearing as soon as possible and that the Debtor requests that this Court immediately Order the vehicle, a 2010 Ford Fusion, wrongfully taken by the Defendant, Select One Auto Sales, be returned and given to the Plaintiff, with the Plaintiff to have the immediate right to obtain possession of said vehicle, with said Defendant to immediately return the 2010 Ford Fusion to the Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court set this complaint for hearing as soon as possible and that this Court find that the Defendant, Select One Auto Sales, be found in willful violation of the automatic stay provisions of

the Bankruptcy Code and of this Court, that Defendant, Select One Auto Sales, be required to pay all attorney fees and all costs for this complaint having to be brought, and reimburse Plaintiff for all damage incurred by Defendant's action, and further sanction Defendant for its willful action with punitive damages.

Respectfully submitted,

/s/ Thomas C. Rollins, Jr.

Attorney for Plaintiff

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